

2/5/2019

ORDINANCE NUMBER 2019- 2

**AN ORDINANCE AMENDING THE WEBER COUNTY LAND USE CODE TO CREATE A LARGE SOLAR ENERGY OVERLAY ZONE (SOZ) AND OFFER RELATED CODE AMENDMENTS**

**WHEREAS**, the Weber County Land Use Code heretofore contained zoning districts and zoning regulations; and

**WHEREAS**, finding that these zones offer insufficient allowance for the creation large scale energy systems, the Board of Weber County Commissioners desires to create these allowances in the A-3 and M-3 zones;

**WHEREAS**, on January 8, 2019, the Western Weber Planning Commission, after appropriate notice, held a public hearing to consider public comment regarding creating these new allowances;

**WHEREAS**, on January 22, 2019, the Ogden Valley Planning Commission, after appropriate notice, held a public hearing to consider public comment regarding creating these new allowances;

**WHEREAS**, both the Western Weber Planning Commission and the Ogden Valley Planning Commission offered a positive recommendation to the Board of County Commissioners in their respect public hearing meetings;

**WHEREAS**, on February 5, 2019, the Weber County Board of Commissioners, after appropriate notice, held a public hearing to consider public comments on the same; and

**WHEREAS**, the Weber County Board of Commissioners find that the ordinance amendments herein do not run contrary to the goals and objectives of the General Plan and provide clarification necessary to facilitate efficient administration of the Weber County Land Use Code;

**NOW THEREFORE**, the Weber County Board of Commissioners ordains an amendment to the Weber County Land Use Code as follows:

**See Exhibit A (Clean Copy) and Exhibit B (Track Changes)**

This ordinance shall become effective fifteen (15) days after publication.

Passed, adopted, and ordered published this 5<sup>th</sup> day of February, 2019, by the Weber County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

By Scott K. Jenkins  
Scott K. Jenkins, Chair

Commissioner Jenkins voted aye  
Commissioner Harvey voted aye  
Commissioner Froerer voted aye

ATTEST:

Ricky Hatch  
Ricky Hatch, CPA  
Weber County Clerk/Auditor

1 **Sec. 101-1-7. - Definitions.**

2 ...

3 *Small wind energy system.* The term "small wind energy system" means a wind energy conversion  
 4 system consisting of a wind turbine, a tower, and associated control or conversion electronics, which will  
 5 be used primarily to reduce on-site consumption of utility power for an individual parcel.

6 *Solar energy system, small.* The term "small solar energy system" means a facility that converts  
 7 sunlight into electricity, clearly being an incidental and accessory use to the main use or structure on the  
 8 lot or parcel and which only supplies power to other uses or structures on the same lot or parcel. Multiple  
 9 adjacent lots or parcels developed together under common ownership or management shall be deemed  
 10 the same parcel for the purposes of this definition.

11 *Solar energy system, large.* The term "large solar energy system" means a that converts sunlight into  
 12 electricity for the primary purpose of wholesale or retail sales of generated electricity to be used offsite.

13 *Special occasion, agri-tourism.* The term "agri-tourism special occasion" means an agri-tourism  
 14 use/activity that provides the opportunity for agri-tourists to rent an area that can act as a venue for  
 15 events, including, but not limited to, birthdays, weddings, family reunions, small scale fundraisers, and/or  
 16 corporate picnics/outings that do not constitute a special event as defined by title 38, special events.

17 ...

18 **CHAPTER 1. - IN GENERAL**

19 **Sec. 104-1-1. - Establishment of zones.**

20 For the purpose of this title, the Territory of Weber County to which this title applies is divided into  
 21 classes of zones as follows:

Residential Estates Zone	RE-15
Residential Estates Zone	RE-20
Gravel Zone	G
Agricultural Zone	A-1
Agricultural Zone	A-2
Agricultural Zone	A-3
Agricultural Valley Zone	AV-3
Forestry Zone	F-5
Forestry Zone	F-10
Forestry Zone	F-40

Forest Valley Zone	FV-3
Shoreline Zone	S-1
Commercial Valley Resort Recreation Zone	CVR-1
Residential Zone	R-1-12
Residential Zone	R-1-10
Forest Residential Zone	FR-1
Residential Zone	R-2
Residential Zone	R-3
Forest Residential Zone	FR-3
Residential Mobile/Manufactured Home Park Zone	RMHP
Residential Manufactured Home Zone	RMH-1-6
Commercial Zone (Neighborhood)	C-1
Commercial Zone (Limited)	C-2
Commercial Zone (Business District)	C-3
Commercial, Valley Zone	CV-1
Commercial, Valley Zone	CV-2
Manufacturing Zone	M-1
Manufacturing Zone	M-2
Manufacturing Zone	M-3
Manufacturing Valley	MV-1

Open Space Zone	O-1
Ogden Valley Sensitive Lands Overlay Districts	SLOD
Ogden Valley Destination and Recreation Resort Zone	DRR-1
Large Solar Energy System Overlay Zone	SOZ

22

23 ...

24 **CHAPTER 25. - MANUFACTURING ZONE M-3**

25 **Sec. 104-25-1. - Purpose and intent.**

26 ...

27 **Sec. 104-25-3. - Conditional uses.**

28 The following uses shall be permitted only when authorized by a conditional use permit as provided  
 29 in title 108, chapter 4 of this Land Use Code:

30 ...

- 31 (11) Missiles and missile parts.
- 32 (12) Public utility substations.
- 33 (13) Private recreation areas.
- 34 (14) Railroad yards, shop or roundhouse; rock crusher.
- 35 (15) Site leveling and preparation for future development.
- 36 (16) Space craft and space craft parts.
- 37 (17) Storage of petroleum.

38 ...

39 **CHAPTER 30. - Large Solar Energy System Overlay Zone SOZ**

40 **Sec. 104-30-1. - Purpose and intent.**

41 The solar overlay zone (SOZ) is intended to allow a legislatively adopted overlay zone that  
 42 permits a large solar energy system. This chapter also establishes minimum requirements and  
 43 regulations for the placement, construction, and modification of large solar energy systems, as defined in  
 44 Section 101-1-7, while promoting the safe, effective and efficient use of these energy systems.

45 **Sec. 104-30-2. - Applicability.**

46 The SOZ is an overlay zone only allowable in the M-3 and A-3 zones and in compliance with this  
 47 chapter.

48 **Sec. 104-30-3. - Permitted uses.**

49 In addition to the uses allowed in the specific underlying zone, the following uses are permitted in the  
 50 SOZ:

- 51 (1) Accessory building incidental to the use of a main building; main building designed or used to  
52 accommodate the main use to which the premises are devoted; and accessory uses  
53 customarily incidental to a main use.
- 54 (2) Large solar energy system.
- 55 (3) Public utility substation, in compliance with standards of Title 108, Chapter 10.

56 **Sec. 104-30-4. – Prohibited uses.**

57 Any solar energy system that uses lenses or mirrors to focus or reflect sunlight is prohibited.

58 **Sec. 104-30-5. – Supplemental SOZ adoption procedures and requirements.**

59 In addition to the rezone procedures found in Title 102, Chapter 5, the following supplemental rezone  
60 and development agreement procedures apply to the SOZ:

- 61 (1) *Overlay zone termination.* The SOZ shall terminate and be removed from the County zone map,  
62 and the development agreement shall also terminate, for any of the following reasons:
- 63 a. The term of the development agreement expires and is not renewed;
- 64 b. The large solar energy system use is discontinued or abandoned;
- 65 c. The solar entity or landowner defaults on any part of the agreement, and the default is not  
66 resolved within the time specified by the development agreement; or
- 67 d. The ownership of the large solar energy system or the ownership of the land changes.  
68 However, at the sole discretion of the County Commission, an existing development  
69 agreement may be amended by legislative authority to apply to new owners without  
70 causing an expiration of the overlay zone.
- 71 (2) *Development agreement.* The SOZ requires special consideration related to site specific  
72 circumstances. As such, prior to adopting the SOZ for any particular property, a development  
73 agreement shall be negotiated by mutual agreement between the County, the solar entity, and,  
74 if different than the solar entity, the landowner.
- 75 a. Execution of the development agreement shall be deemed a legislative action.
- 76 b. The development agreement shall be in a form as approved by the County Attorney, and  
77 shall be executed simultaneous with the adoption of the SOZ.
- 78 c. The development agreement may address specific topics as deemed appropriate by the  
79 negotiating parties, but at a minimum, shall provide the following:
- 80 1. All applicable provisions of this section;
- 81 2. A site plan, showing location of all facilities, equipment, infrastructure, and screening  
82 and vegetation;
- 83 3. A solar equipment treatment plan that demonstrates mitigation of detrimental effects of  
84 solar energy system on migratory fowl;
- 85 4. Performance measures necessary to ensure proper site reclamation at the expiration or  
86 discontinuance of the use;
- 87 5. Definitions and procedures regarding default, including the results of a default; and
- 88 6. A property legal description, including all acreage necessary to meet the minimum site  
89 requirement of this chapter. The legal description shall include all new acreage in a  
90 SOZ overlay so that all area in a SOZ is regulated by a development agreement.

91 d. As a baseline for negotiation, the standards applicable for conditional uses, as found in  
92 Section 108-4-5(c), shall be addressed by the applicant prior to any action on the overlay  
93 zone. Actual implementation of a conditional use standard shall be at the discretion of the  
94 County Commission and shall be executed as part of the development agreement. Use of a  
95 conditional use standard shall not constitute an administrative approval of a conditional  
96 use.

97 **Sec. 104-30-6. – Site development standards.**

98 In addition to the development standards of the applicable underlying zone, the following site  
99 development standards apply to the SOZ. For the purpose of this chapter, the term “site” shall mean an  
100 entire contiguous area described in the applicable development agreement.

101 (1) *Site area:* The minimum contiguous site area shall be 100 acres.

102 (2) *Site setbacks:*

103 a. Minimum setback of open-air solar equipment shall be:

104 1. 30 feet from the perimeter of the site.

105 2. 500 feet from adjacent property containing a residential use. This may be reduced to 30  
106 feet if the entire use is completely obscured from view from the adjacent property  
107 containing the residential use by berms, vegetation, or opaque fence or wall.

108 3. 1,000 feet from any zone in which the overlay zone is not permitted by this chapter.  
109 This may be reduced to 200 feet if the entire use is completely obscured from view  
110 from the properties in the other zone(s) by berms, vegetation, or opaque fence or wall.

111 b. Minimum setback of accessory use shall be 30 feet from any street right-of-way and 10 feet  
112 from the perimeter of the site.

113 (3) *Height:*

114 1. Maximum height of open-air main or accessory use shall be 15 feet.

115 2. Maximum height of accessory building shall be 25 feet.

116 (4) *Site design requirements.* As applied to uses allowed by this overlay zone, the requirements of  
117 this chapter and any site design standard or requirement adopted in the development  
118 agreement constitute the entire design requirements for the site. No other design, architectural,  
119 landscaping, or screening requirements found elsewhere in this land use code shall apply.

120 ...

121 **Sec. 108-7-27. - Solar energy systems.**

122 (a) *Small solar energy system.* A small solar energy system, as defined in Section 101-1-7, is allowed  
123 in any zone, and shall meet the setback and height requirements for an accessory building in the  
124 zone in which the system is located. Setbacks shall be measured to the outermost edge of the  
125 system nearest the property line. Solar energy systems which are attached to a building shall meet  
126 the same setbacks that are required for the building.

127 (b) *Large solar energy system.* A large solar energy system, as defined in Section 101-1-7, is regulated  
128 by Title 104 Chapter 30 of this Land Use Code.

129

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32 ~~(12) Large scale photovoltaic solar energy systems designed to produce energy for wholesale~~  
 33 ~~purposes.~~

34 (123) Public utility substations.

35 (134) Private recreation areas.

36 (145) Railroad yards, shop or roundhouse; rock crusher.

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108 feet if the entire use is completely obscured from view from the adjacent property  
109 containing the residential use by berms, vegetation, or opaque fence or wall.

110 3. 1,000 feet from any zone in which the overlay zone is not permitted by this chapter.  
111 This may be reduced to 200 feet if the entire use is completely obscured from view  
112 from the properties in the other zone(s) by berms, vegetation, or opaque fence or wall.

113 b. Minimum setback of accessory use shall be 30 feet from any street right-of-way and 10 feet  
114 from the perimeter of the site.

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121 landscaping, or screening requirements found elsewhere in this land use code shall apply.

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123 **Sec. 108-7-27. - Solar energy systems.**

124 (a) Small solar energy system. Solar energy systems located on individual parcels/lots, which are used  
125 to supply energy to a principal use or structure on the parcel/lot, shall be allowed in any zone as an  
126 accessory use to a principal use or structure. A small solar energy systems, as defined in Section  
127 101-1-7, is allowed in any zone, and shall meet the setback and height requirements for an  
128 accessory building in the zone in which the system is located. Setbacks shall be measured to the  
129 outermost edge of the system nearest the property line. Solar energy systems which are attached to  
130 a building shall meet the same setbacks that are required for the building.

131 (b) Large solar energy system.~~This section does not address large scale projects which include multiple~~  
132 ~~solar energy systems designed to produce energy for wholesale purposes.~~ A large solar energy  
133 system, as defined in Section 101-1-7, is regulated by Title 104 Chapter 30 of this Land Use Code.

134